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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/545,667      | 04/07/2000  | David R. Thomas      | TI-27109            | 9856             |

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EXAMINER

CUFF, MICHAEL A

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 10/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
09/545,667

Applicant(s)

Thomas et al.

Examiner

Michael Cuff

Art Unit

3627



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Sep 5, 2000

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-46 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-46 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

Art Unit: 3627

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan in view of Shaw et al.

Kaplan shows all of the limitations of the claims except for specifying the degraded signal for the samples and some details as to how the digital signal is processed.

Kaplan shows, figure 2, a network and method for preview and sale of music products. Kiosk unit 10 acts as a dialogue unit, digital processor, with a product reader including a signal processing unit. A range of audio/video products are available. Database 60 maintains customer files and demand data.

Shaw et al. teaches, figure 1, a system and method for producing a quantized signal where the broadcaster has the control to select the appropriate quality level that he or she wants in order to conserve bandwidth (column 3, lines 34-36)

Art Unit: 3627

Based on the teaching of Shaw et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Kaplan system to select the appropriate quality level (degraded level) in order to conserve bandwidth.

The examiner takes official notice the digital signal processes claimed are old and well known and are commonly used in order to manipulate digital products. (For example, the examiner found 2,649 direct hits on "discrete Fourier transforms", 3,195 hits on "frequency modulator", and 26 hits on "frequency band rejections")

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Kaplan system to use standard digital processes in order to manipulate digital products.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Greenwood et al. and Krishnaswamy et al. show digital systems of interest.
4. Any inquiry concerning this communication should be directed to Michael Cuff at telephone number (703) 308-0610. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 872-9326. (After Final special fax number (703) 872-9327) The customer service number is (703) 872-9325.

*Michael Cuff* 10/1/02  
Michael Cuff  
October 01, 2002